IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 9713 OF 2004.

Shri Shivanand S.Konade. ... Petitioner.
V/s.
The Educatuion Officer(Secondary)
Z.P.Solapur & Ors. ... Respondents.

Shri S.G. Kudle, advocate for petitioner.

Shri C.R.Sonawane, AGP for for Respondent Nos.1 and 2.

Shri R.S.Alange, advocate for respondent No.3.

CORAM : S.B.MHASE &
D.B.BHOSALE,JJ

DATE : MARCH 29,2005.

P.C. :

1. Heard the learned counsel appearing for the parties.

2. Rule returnable forthwith with the consent of the parties.

3. Shri.Kudle, learned counsel for the petitioner submits that the petitioner is running a school after getting permission from the Education department. It is a non-grantable school. He submitted that the students whose names are reflected in Exhibit-"B" to this petition have taken admission in the petitioner’s school for the academic year 2004-2005 in 8th

standard. Prior to getting an admission in the petitioner's school, these students were taking education with the respondent No.3, namely, Jay Hanuman Vidya Mandir. However, that school is located at a distance of 3 to 5 kms. from the petitioner's school. Since this school run by the petitioner is convenient to the students, the students have taken admission with the petitioner's school. Mr.Kudle submits that after these students were admitted in the petitioner's school, petitioner's school has requested the respondent No.3 to transmit the School Leaving Certificates of these students to the petitioner's school and such correspondence is made. When it is found that in spite of such correspondence, the respondent No.3 is not delivering said School Leaving Certificates of the students, grievance was made to the Education Officer(Secondary) Zilla Parishad, Solapur and the Education Officer(Secondary) Z.P. by his order dated 1st October, 2004 directed the respondent No.3 to hand over the School Leaving Certificates to the petitioner's school. In spite of the said direction given by Education Officer, the respondent No.3 has not transmitted the School Leaving Certificates. Therefore, the Petitioner has approached this court invoking jurisdiction of this

Court under Article 226 of the Constitution of India. Shri Kudle, the learned counsel for the petitioner submits that if the school leaving certificate will not be transmitted to the petitioner's institution, the students who have taken admission in petitioner's school will suffer loss of their education and academic year and therefore, immediate transmission of these school leaving certificate is necessary.

4. Mr. Sonawane, the learned AGP for the respondent Nos.1 and 2 has already filed an affidavit of the Education Officer. The Education Officer by his affidavit has supported the case of the petitioner. The learned counsel Shri R.S.Alange appearing on behalf of the respondent No.3 submitted that these students have not applied to the respondent institution and hence their School Leaving Certificates are not transmitted. However, it is submitted that they are ready to give School Leaving Certificates.

5. After hearing this, we find that the procedure provided under the Secondary School Code is that when the student who has taken admission in new school after giving up earlier school, it is the duty of the

Head Master of the new school to make submission to the Head Master of the earlier school. The Head Master of the earlier school is under legal obligation to transmit School Leaving Certificate. Even though such procedure has been followed by the petitioner in the present case, the respondent No.3 has not responded to it and above all in spite of the directions given by the Education Officer, the respondent No.3 has failed to respond to the directions of the Education Officer. In fact under these circumstances, Education Officer should have proceeded with a stern action as against the respondent No.3. Surprisingly, the Education officer has taken role of silent spectator, after giving direction to the respondent No.3. It is needless to mention that the Education Officer is not powerless person to control the respondent No.3 who has disobeyed the order of the respondent No.1 and let the facts as it is. We find that this is the fit case to issue appropriate direction to respondents. We therefore, allow the petition in the following terms.

(i) The respondent No.3 is hereby directed to issue School Leaving Certificates of the students who are enlisted in Exhibit-"B" to

the petition which is an application dated 27/10/2004 addressed to the Respondent No.3.

(ii) The respondent No.3 is hereby directed to comply with this order within a period of 15 days from today.

(iii) Education Officer is hereby directed to see that the directions issued by this Court are implemented by the respondent No.3 and these School leaving Certificates are transmitted to the petitioner institution in time.

(iv) We further direct that in case, respondent No.3 fails to hand over the School Leaving Certificates to the petitioner's school, Education Officer to withdraw the permission to run the school of Respondent No.3.

(v) With these directions, petition is disposed of accordingly.

(vi) All concerned to act on the

authenticated copy of this order issued by Registry of this Court.

(D.B.BHOSALE,J) **(S.B.MHASE,J)**

Login:general/ast